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December 11, 2007

MEMO ENDORSED

Hon. Debra C. Freeman
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 525
New York, New York 10007

The Court construes the within letter as a motion for reconsideration of the Court's order dated 12/11/07, and as such, the motion is denied. While counsel supports that the Court overlooked certain facts in issuing its decision, the Court does not find that these additional facts would have been material to its analysis.

Re: *GMA v. Eminent, Inc. et al*
Docket No.: 07 CV 3219 (LTS) (DF)

SO ORDERED: DATE: 12/12/07

Your Honor:

.....
DEBRA FREEMAN
UNITED STATES MAGISTRATE JUDGE

I respectfully submit that Your Honor's decision of this date does not address the *duces tecum* portion of the subpoena. Plaintiff's November 21 application sought enforcement "both with respect to the production of documents that were due on November 14 and the deposition" pursuant to the subpoena of CHARLOTTE B LLC annexed as Exhibit A to the November 21 letter to the Court. My November 28 reply letter also mentioned that the documents were not produced and that counsel had not offered an excuse for failing to comply or move to quash the document production portion of the subpoena.

With respect to the deposition portion of the subpoena, I respectfully remind the Court that the subpoena was not only served on the registered agent but was also served on CHARLOTTE B's counsel in New York city. See Exhibit C to the November 21 application. That this service took place is not in dispute. See November 23 letter from Mr. Sacks to the Court saying "The Solnicki subpoena was followed by a subpoena for CHARLOTTE B LLC also served upon us as counsel". As such I respectfully ask, for the reasons contained in our prior submissions, that the Court enforce the subpoena insofar as it was served upon New York City counsel for a New York City deposition of a New York City witness.¹

Accordingly, I respectfully ask that the subpoena be enforced with respect to the documents and that the Court reconsider that portion of the decision that denied the deposition.

Respectfully,
John P. Bostany
John P. Bostany

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED

12/12/07
¹ I respectfully retract the argument that New York City is less than 100 miles from Dover as I was not prepared for this topic which arose for the first time during oral argument and was misinformed.